

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
SOFTWARE VALUE-ADDED RESELLER CONTRACT (SVAR)**

**Master Price Agreement Number: ADSP011 00000358-3**

**Administered by the State of Arizona (hereinafter "Lead State")**

between

**SHI INTERNATIONAL CORP**

(hereinafter "Contractor")

And

State of Kansas

(hereinafter "Participating State")

(Participating State Contract Number: 000000000000000000000000036093)

Page 1 of 5

1. Scope: This addendum covers the WSCA Software Value-Added Reseller Contract lead by the State of Arizona for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize state contracts.

2. Participation: Use of specific WSCA cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

INDIVIDUAL CUSTOMER: Each State agency and political subdivision, as a Participating Entity, that purchases products/services will be treated as if they were Individual Customers. Except to the extent modified by this Participating Addendum, each agency and political subdivision will be responsible to follow the terms and conditions of the Master Agreement; and they will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement. Each agency and political subdivision will be responsible for their own charges, fees, and liabilities. Each agency and political subdivision will have the same rights to any indemnity or to recover any costs allowed in the contract for their purchases. The Contractor will apply the charges to each Participating Entity individually.

3. Participating State Modifications or Additions to Master Price Agreement:

a. The laws of the State of Kansas shall govern this Addendum.

b. Section 5. Order of precedence is modified as follows:

- (1) State of Kansas Contractual Provisions Attachment (as modified), DA-146a attached and incorporated into this Addendum as Attachment A.
- (2) This Participating Addendum
- (3) The WSCA Master Price Agreement B27164 and its Exhibits
- (4) Contractor's WSCA/NASPO PC contract proposal including best and final offer.

c. Reports and Administrative Fees:

The Contractor shall submit calendar quarterly reports to the Division of Purchases for all acquisitions, less returned product ("actual, net invoice sales"), made from this Addendum. This report should include as a minimum the agency name, quantity, description and amount. The report will be provided electronically and a check sent payable to the Division of Purchases for an amount equal to one quarter of one percent (0.25%) of the total actual sales. The report and fee shall be submitted 30 days following

the end of the calendar quarter. The Report submitted to the State of Kansas shall be in the same format requested by and submitted to WSCA.

The Contractor further agrees to work with the State of Kansas to generate specific reports to assist in the continuation of standard configurations.

The State may request any and all reports to be submitted in electronic format.

- f. Travel expenses if applicable, shall be reimbursed under the same rates and conditions as noted in the "Employee Travel Expense Reimbursement Handbook" found at: <http://da.state.ks.us/ar/employee/travel/travbk.htm> unless otherwise agreed upon with the purchasing entity.
- g. Upon request of the purchasing entity, the Contract shall accept a Business Procurement Card (BPC) or other like instrument in lieu of a warrant for payment under this Addendum. SHI may include the transaction fee of no more than 2.45%. No additional charges will be allowed for using the card.

SHI's cost is defined as SHI's acquisition cost and would include: Inbound freight, handling fees and/or order fees that have been charged to SHI – SHI does not initiate or add any self-imposed fees. Any third party fees associated with the transaction, such as Credit Card Fees or transaction fees would be included.

4. Lease Agreements: Political subdivisions or educational entities that have the authority may finance their purchase. If financing is through a lease agreement, that agreement is separate from this agreement and between the Contractor and the agency.

5. Primary Contacts: The primary contact individual for this participating addendum are as follows (or their named successors):

Lead State

Name	Terri Johnson
Address	State of Arizona – Department of Administration State Procurement Office 100 N 15 <sup>th</sup> Ave, Phoenix, AZ 85007
Telephone	602-542-9125
Fax	602-542-5508
E-mail	<a href="mailto:terri.johnson@azdoa.gov">terri.johnson@azdoa.gov</a>

Contractor

Name	Katie O'Kane
Address	SHI International Corp
Telephone	800-477-6479 Ext 5904
Mobile	848-248-3129
Fax	732-868-5905
E-mail	<a href="mailto:katie_okane@shi.com">katie_okane@shi.com</a>

Participating Entity

Name	Tami Sherley
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Address	State of Kansas - Department of Administration Office of Business Process Improvement, Procurement and Contracts 900 SW Jackson, Rm. 102N Topeka, KS 66612
Telephone	785-296-3122
Fax	785-296-7240
E-mail	Tami.sherley@da.ks.gov

6. Subcontractors: All SHI dealers and resellers authorized in the State of Kansas, as shown on the dedicated SHI (WSCA) website, are approved to provide sales and service support to participants in the WSCA Master Price Agreement. SHI dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Price Agreement.

**7. Purchase Order Instructions:** All orders should contain the following (1) Mandatory Language "PO is subject to WSCA Contract #ADSP011-00000358-3 " (2) Your Name, Address, Contact, & Phone-Number (3) Purchase order amount, monthly payment (if leased), itemized list of accessories, & CPC rate of the service contract. Please also include a Quote Number on your PO if you received a quote from SHI. Please channel your PO through one of our authorized resellers so they can arrange for proper ordering and installation.

**Orders should only be made out to SHI.**

**8. Price Agreement Number:** All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Participating State contract number: 000000000000000000036093 and the Lead State price agreement number: ADSP011-00000358-3.

This Participating Addendum and the Master Price Agreement number ADSP011-00000358-3 (administered by the State of Arizona ) together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating State: State of Kansas	Contractor:
By: <i>Chadman</i> DIRECTOR 9/29/11	By: <i>Natalie Castro</i>

Name: Chris Howe	Name: <i>Natalie Castagno</i>
Title: Director	Title: <i>contract specialist</i>
Date:	Date: <i>9/28/11</i>

State of Kansas  
Department of Administration  
DA-146a (Rev. 1-01)

## CONTRACTUAL PROVISIONS ATTACHMENT

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
  2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
  3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
  4. **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*).
  5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract so that they are binding upon such subcontractor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.
- Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
  7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
  8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
  9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
  10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
  11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 *et seq.*
  12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

